

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL NO. 1:05-CR-0487
	:	
v.	:	(Judge Conner)
	:	
MARIANO ESCOBAR	:	

ORDER

AND NOW, this 16th day of January, 2008, upon consideration of defendant's motion (Doc. 122) to file a notice of appeal¹ and for appointment of new counsel for his appeal, averring that he informed his attorney to file an appeal of his sentence, but that his attorney did not file an appeal,² and it appearing that the court sentenced defendant on February 21, 2007 (see Doc. 115), and that the court is not authorized to extend defendant's appeal period for over nine months, see FED. R. APP. P. 4(b)(4) ("Upon a finding of excusable neglect or good cause, the district court may--before or after the time has expired, with or without motion and notice--extend the time to file a notice of appeal for a *period not to exceed 30 days* from the expiration of the time otherwise prescribed by this Rule 4(b)." (emphasis added)), see also United States v. Pendelton, No. 04-CR-131-2, 2007 WL 121963, at *5 (M.D. Pa. Jan. 12, 2007), it is hereby ORDERED that the motion (Doc. 122) to file a notice of appeal and for appointment of new counsel for his appeal is DENIED.

/s/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge

¹ Defendant's time to appeal has expired. See FED. R. APP. P. 4(b). Therefore, the court will construe his motion as a request for an extension of time to file an appeal.

² Although not dispositive of the instant motion, the court notes that defendant signed a plea agreement expressly waiving his right to appeal his conviction and sentence. (See Doc. 59 ¶ 33.)